

(26,036)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 569.

TAKAO OZAWA

vs.

THE UNITED STATES.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF
APPEALS FOR THE NINTH CIRCUIT.

INDEX.

	Original.	Print
Certificate from the United States Circuit Court of Appeals for the Ninth Circuit	1	1
Names and addresses of counsel.....	2	1
Statement	3	1
Questions certified	5	2
Judges' signatures	5	3
Clerk's certificate	6	3

1 United States Circuit Court of Appeals for the Ninth Circuit.
No. 2888.

TAKAO OZAWA, Appellant,
vs.

THE UNITED STATES OF AMERICA, Appellee.

Upon Appeal from the United States District Court for the Territory
of Hawaii.

*Certificate of the United States Circuit Court of Appeals for the
Ninth Circuit, Certifying Certain Questions or Propositions of
Law to the Supreme Court of the United States under Section 239
Judicial Code.*

2 Names and Addresses of Attorneys upon This Appeal.

For Petitioner:

David L. Withington, Esq., 125 Merchant St., Honolulu, Hawaii.
J. Lightfoot, Esq., Kapiolani Bldg., Honolulu, Hawaii.

For United States of America:

S. C. Huber, Esq., United States Attorney, Honolulu, Hawaii.
John W. Preston, United States Attorney, San Francisco, Cal.
Ed. F. Jared, Asst. United States Attorney, San Francisco, Cal.

3 In the United States Circuit Court of Appeals for the Ninth
Circuit.

No. 2888.

TAKAO OZAWA, Appellant,
vs.

THE UNITED STATES OF AMERICA, Appellee.

Upon Appeal from the United States District Court for the Territory
of Hawaii.

*Certificate of the United States Circuit Court of Appeals for the
Ninth Circuit, Certifying Certain Questions or Propositions of
Law to the Supreme Court of the United States under Section 239
Judicial Code.*

Before Gilbert, Morrow, and Hunt, Circuit Judges.

This cause came to the Circuit Court of Appeals for the Ninth
Circuit upon an appeal from the United States District Court for the

Territory of Hawaii, from a judgment denying the petition of said Takao Ozawa and refusing him to citizenship and dismissing the petition on the grounds set up by the United States District Attorney for the District of Hawaii.

At the trial of the above entitled cause the petitioner appeared in person, and the petition was opposed by the United States District Attorney for the District of Hawaii on the ground that the petitioner, being a person of the Japanese race and born in Japan, is not eligible to citizenship under Revised Statutes, Section 2169. The other qualifications were proved, including all the statements in the petition, and found to be fully established, and are so conceded by the government. The petitioner had declared his intention to become a citizen of the United States on the first day of August 1902 in Oakland, California, in the Superior Court of the County of Alameda, State of California, and at the time of filing the petition resided, and had so resided at Honolulu, Hawaii, since the 25th day of May 1906. The petition was filed in said Court October 16, 1914.

The applicant had for twenty years continuously resided in the United States, including the last nine years' residence in Hawaii. He graduated from the Berkeley, California, High School, and was for nearly three years a student at the University of California, until it was closed by the earthquake in 1906. He has educated his children in American schools and he and his family have attended American churches, and he has maintained the use of the English language in his home. He presented two briefs of his own authorship, which are ample proof of his qualification, by education and character.

The Court found that the contention of the United States District Attorney is correct and that, although the applicant was eligible for citizenship in every other respect, yet having been born in Japan and being of the Japanese race, as a matter of law he was not eligible to naturalization, and denied the petition, to which the petitioner excepted.

There was heard in this Court at the same time a writ of error taken out by the appellant, Takao Ozawa, to the said judgment and submitted with the appeal.

Questions of law concerning which the Circuit Court of Appeals desires the instruction of the Supreme Court are:

1. Is the Act of June 29, 1906 (34 Stats. at Large, Part 1, Page 596) providing "for a uniform rule for the naturalization of aliens" complete in itself, or is it limited by Section 2169 of the Revised Statutes of the United States.

2. Is one who is of the Japanese race and born in Japan eligible to citizenship under the Naturalization laws?

3. If said Act of June 29, 1906, is limited by said Section 2169 and naturalization is limited to aliens being free white persons and to aliens of African nativity and to persons of African descent, is

one of the Japanese race, born in Japan, under any circumstances eligible to naturalization?

WM. B. GILBERT,
ERSKINE M. ROSS,
WILLIAM H. HUNT,
*Judges U. S. Circuit Court of Appeals
for the Ninth Circuit.*

Dated at San Francisco, June 4, 1917.

[Endorsed:] Certificate of the United States Circuit Court of Appeals for the Ninth Circuit, certifying certain questions or propositions of law to the Supreme Court of the United States under section 239 Judicial Code. Filed June 4, 1917. F. D. Monckton, Clerk, U. S. Circuit Court of Appeals for the Ninth Circuit.

6 United States Circuit Court of Appeals for the Ninth Circuit.

No. 2888.

TAKAO OZAWA, Appellant,

vs.

THE UNITED STATES OF AMERICA, Appellee.

Certificate of Clerk U. S. Circuit Court of Appeals for the Ninth Circuit to Copy of Certificate of said Court Certifying Certain Questions or Propositions of Law to the Supreme Court of the United States.

I, Frank D. Monckton, as Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing 5 pages, numbered from and including 1 to and including 5, to be a full, true and correct copy of the certificate of the United States Circuit Court of Appeals for the Ninth Circuit, Certifying Certain Questions or Propositions of Law to the Supreme Court of the United States under Section 239 of the Judicial Code (36 Stat. 1157) filed in the above-entitled cause on the fourth day of June, A. D. 1917, as the original thereof remains on file and appears of record in my office.

Attest my hand the Seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this sixth day of June, A. D. 1917.

[Seal United States Circuit Court of Appeals, Ninth Circuit.]

F. D. MONCKTON, *Clerk,*
By PAUL P. O'BRIEN,
Deputy Clerk.

[Endorsed:] No. 2888. United States Circuit Court of Appeals for the Ninth Circuit.

Takao Ozawa vs. The United States of America.

Certified Copy of Certificate of the United States Circuit Court of Appeals for the Ninth Circuit, Certifying Certain Questions or Propositions of Law to the Supreme Court of the United States under Section 239 Judicial Code.

Filed June 4, 1917, F. D. Monckton, Clerk, U. S. Circuit Court of Appeals for the Ninth Circuit.

Endorsed on cover: File No. 26,036. U. S. Circuit Court Appeals, 9th Circuit. Term No. 569. Takao Ozawa vs. The United States. (Certificate.) Filed July 13th, 1917. File No. 26,036.